करने का है तो वह बहुत से इस्लामिक कंट्रीज और क्रिश्चियन कंट्रीज ने इसको एडाप्ट कर लिया है। इस लिहाज से मैं जानना चाहता हूं कि क्या मंत्री महोदय उन धार्मिक नेताओं से बात चीत करेंगे, जिनके धर्म में इसके बारे में मुमानियत है, कि पिल्ज का इस्तेमाल वे लोग भी कहें कि होना चाहिए? क्या इस के संबंध में आप उन से बात-चीत करेंगे और क्या कोई रास्ता इस के लिए निकालेंगे?

SHRI B. SHANKARANAND : Sir, I can only say that this is a suggestion for action.

*405. [*The Questioner (SHRI Dilip Singh Jadev) was absent. For answer* vide *col.* infra.]

Guidelines regarding behaviour of Police with the Legislators

*406. SHRI VIREN J. SHAH :

SHRI PRAMOD MAHAJAN :

Will the Minister of HOME AFFAIRS be pleased to state :

(a) whether Government have issued any detailed guidelines to State Governments etc. for dealings (i) between the Administration and Legislators and (ii) police and Legislators in consistance with the dignity of Members of legislatures to avoid complaints;

(b) if so, what are the details of the guidelines and whether Government would lay a copy of it on the Table of the House;

(c) to what extent these guidelines have been followed by the Police and paramilitary forces in dealing with the Members of Parliament and State Legislatures during the recent BJP Rally held in New Delhi on February 25, 1993 and what are the details in this regard; and

(d) the names of police officials who have been found guilty of misbehaviour or using excessive force while dealing with the Members of Parliament?

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN) : (a) and (b) The Government have issued instructions about observance of proper procedure in official dealings between the Administration (including the police) and Members of Parliament and of the Houses of State Legislatures. The instructions inter-alia provide that;

(i) government servants should show courtesy and consideration to the Members; and

(ii) While they should consider carefully or listen patiently to what the Members may have to say, they should always act according to their own best judgement.

A copy of the communication containing of the instructions on the subject is attached as Statement. (*See* below).

(c) Though the aforesaid guidelines do not cover dealings of the police with Member of Parliament and of the Houses of State Legislatures when they become members of an unlawful assembly, as was the case in Delhi on 25 February, 1993, the police behaved with utmost restraint, requisite tact, and courtesy and used minimum force while dealing with the unlawful assembly at various places in Delhi.

(d) No police official has been found guilty of misbehaviour or of use of excessive force while dealing with the Members of Parliament on 25 February 1993 in Delhi.

Statement

No. 11013/2/92-Estt.(A)

Government of India

Ministry of Personnel, P. G. & Pensions

(Department of Personnel & Training)

New Delhi, the 21st December 92

SUBJECT : *Official dealings between the Administration and Members*

†The Question was actually asked on the floor of the House by Shri Viren J. Shah.

of Parliament and State Legislatures-Observance of proper procedure-instructions regarding.

The undersigned is directed to refer to Department of Personnel & A.R. O.M. No. 25/19/64-Estt.(A) dated 8th November, 1974 (copy enclosed) wherein broad guidelines were laid down to govern official dealings between the Administration and the Members of Parliament and State Legislatures. These guidelines were recirculated on 23-6-1988 and again on 23-4-91 with the request to bring these instructions to the notice of all concerned for strict compliance.

It has been noted that of late there have been cases where due and proper courtesy was not shown to MPs/MLAs, thereby inviting adverse comments. There is, therefore need for ensuring that proper courtesy is always shown to the Members of Parliament/State Legislatures. Therefore, it is once again reiterated that Ministries/Departments should ensure that the guidelines contained in the O.M. dated 8th November, 1974 are observed strictly at all levels.

It has further been noted that reference from Committees of Parliament were not being attended to promptly. It has, therefore, been decided that all such references should be attended to promptly and should not be passed on routinely down the line. Ministries/Departments should immediately identify a senior officer at the level of Joint Secretary or equivalent who should be charged with the responsibility of ensuring that the references are attended to promptly.

As regards treatment of letters received from Members of Parliament/State Legislatures, attention is invited to the following para contained in the instruction issued by the Government of India in 1974 referred to in para 1 above.

> "7. Letters received from Members of Parliament and of State Legislatures should be acknowledged promptly. All such letters should receive careful consideration and should be responded to at an appropriate level and expeditiously.. The officers should furnish to Members of Parliament and of State Legislatures when asked for. such information or statistics relating to matters of local importance as are readily available and are not confidential. In doubtful cases instructions should be taken from a higher authority before refusing request."

It has also been decided that Ministries/Departments should issue instructions to ensure that in a public function organised by any of its offices in any part of the country, the Members of Parliament/State Legislatures of the area are invariably invited and entry passes wherever necessary, are sent to them in advance to avoid any inconvenience to them in this regard.

Ministries/Departments may also ensure that while addressing communications to the Members of Parliament, proper protocol conforming to their position in the Warrant of precedence (copy enclosed), (See below) should be observed. In all official correspondence, where the name of an MP is to appear alongwith others, the name should be listed according to the position assigned to the MPs in the Warrant of Precedence. Care should also be taken to address each of them as Member of Parliament (or MP) and not as Member of Lok Sabha or Member of Rajya Sabha. If it is desired to be more specific about the House to which they belong, they may be addressed as Member of Parliament or MP (Lok Sabha)/Rajya Sabha.

With a view to ensuring that these instructions are scrupulously followed by all concerned, it is necessary that these instructions are made available to all the offices preferably in local languages.

It may please be ensured that these instructions are followed by all concerned in letter and spirit. It may also be emphasisd on all concerned that a serious note will be taken of any violation of these instructions.

Sd/-
(SANJAY PATRA)
Deputy Secretary
to the Govt. of India

To

(i) All Ministries/Departments of Govt. of India with usual number of spare copies.

(ii) C & AG of India.

(iii) UPSC/SSC / LBSNAA/ISTM / CVC/CBI.

(iv) Chief Secretaries of all States & UTs. It is requested that these instructions are brought to the notice of all concerned—particularly the Police Officers and Officials at the lower level, alongwith a copy translated in the local language.

(v) Lok Sabha Secretariat/Rajya Sabha Secretariat.

Sd/-

(SANJAY PATRA)
Deputy Secretary
to the Govt. of India

Copy of Government of India, Cabinet Secretariat, Department of Personnel & Administrative Reforms, New Delhi's office memorandum No. 25/19/64-Ests(A) dated 8-11-74.

SUBJECT : *Official dealings between the Administration and Members of Parliament and State Legislatures—Observance of proper procedure—Instructions regarding.*

The undersigned is directed to state that Members of Parliament and State Legislatures occupy in our democratic set-up a very important place as accredited representatives of the people. They have important functions to perform under the Constitution and they may occasionally find it necessary to seek information from the Ministries/Departments of the Govt. of India or the State Governments, or make suggestions for their consideration or ask for interviews with officers in connection with their parliamentary and allied public duties. In this connection, certain well recognized principles and conventions to govern the relations between Members of Parliament and of State Legislatures and Government servants have already been established. These principles and conventions were communicated in Ministry of Home Affairs (now Department of Personnel and Administrative Reforms) Office Memorandum No. 25/29/56-Ests(A) dated the 28th August, 1957 and Office Memorandum No. 25/6/68-Ests(A) dated the 27th March, 1968 (copies enclosed as Annexure I and II respectively). However, on a review of the position it has been considered necessary to reiterate, and to spell out in some detail, the principles and practices that should govern the relations between Members of Parliament and of State Legislatures and Government servants. The instructions in this regard are contained in the subsequent paragraphs. The Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all concerned for guidance and strict compliance.

The two basic principles to be borne in mind are :

(i) that Government servants should show courtesy and consideration to Members of Parliament and of State Legislatures; and

(ii) that while they should consider carefully or listen patiently to what the Members of Parliament and of State Legislatures may have to say, they should always act according to their own best judgement.

3. It should be the endeavour of every officer to help the Member of Parliament and of State Legislatures to the extent possible in the discharge of their important functions under Constitution. In case, however, where an officer is unable to accede to the request or suggestion of a Member, the reasons for his inability to do so should be courteously explained to the Member.

It is realized that many officers have very heavy public duties and responsibilities and if they are in function effectively

they should be permitted to plan out their day's work with some care and adhere to the plan. An officer should feel free to set apart some hour when he can refuse to meet visitor without being considered guilty of discourtesy, lack of consideration and the like. He should, however, set apart some time every day when anybody can see him and, within these hours and also during other office hours in which he meets visitors, he must give priority to Members of Parliament and of State Legislatures except when a visitor has come by previous appointment and a Member of Parliament or of a State Legislature has come without any appointment. In such a case he should see the Member of *Parliament or of a State Legislature immediately* after he has met the visitor who had come by previous appointment. Any deviation from an appointment made with a Member of Parliament or of a State Legislature or indeed with any other person must promptly be explained to the Member concerned so that the least possible inconvenience is caused to him and a fresh appointment should be fixed in consultation with him.

When a Member of Parliament or of a State Legislature comes to see him, an officer should rise in his seat to receive *the Member and to see him off. Small* gestures have symbolic value and officers should, therefore, be meticulously correct, and courteous in their dealings with Members of Parliament and of State Legislatures.

Similarly, seating arrangement at public functions should receive very careful attention at all times and it should be ensured that there is no room for any misunderstanding on this score. The position of Members of Parliament has been clearly brought out in the Warrant of Precedence approved by the President. MPs appear at Article 30 above officers of the rank of full Central or equivalent, Secretaries to the Government of India, etc. The instructions appended to the Warrant of Precedence also lay down that when Members of Parliament are invited *en bloc* to major State functions, the enclosure reserved for them should be next to the Governors, Chief Justice, Speaker of the Lok Sabha, Ambassadors, etc. A further provision in the instructions is that the Members of State Legislatures who owing to their presence in Delhi happen to be invited to State functions, should be assigned rank just after Members of Parliament. To avoid inconvenience to Members of Parliament and of State Legislatures who may come late, the block seats meant for them should be kept reserved till the end of the function and should not be occupied by other persons, even though they may be vacant. The seats provided for them should be at least as comfortable and as prominently placed as those for officials.

Letters received from Members of Parliament and of State Legislatures should be acknowledged promptly. All such letters should receive careful consideration and should be responded to at an appropriate level and expeditiously. The officers should furnish to Members of Parliament and of State Legislatures when asked for, such information or statistics relating to matters of local importance as are readily available and are not confidential. Indoubtful cases instructions should be taken from a higher authority before refusing request.

While the official dealings of Government servants with Members of Parliament and of State Legislatures have to be regulated as stated in the previous paragraphs, it is necessary to invite the attention of Government servants to what is expected of them in their individual capacity in respect of their own grievances in the matter of conditions of service. Under the relevant Conduct Rules governing them, Government servants are prohibited from bringing or attempting to bring any political or other influence to bear upon any superior authority to further their interests in respect of matters pertaining to their service under the Government. Therefore, a Government servant is not expected to approach a Member of Parliament or of a State Legislature for sponsering his individual case.

SHRI VIREN J. SHAH: Mr. Chairman, Sir, I presume that the statement is in

front of you. If you look at the question and the answer, there are several lacunae. But I will restrict myself to two only. Part (a) of my question is with regard to the detailed guidelines to the State Governments etc. in respect of the police and the legislators and the reply of the hon. Minister is that there are no such guidelines which cover the police and the Member of Parliament etc. May I draw the attention of the hon. Minister to the 30th report of the Committee on Privileges, laid on the Table of the House on 16th July, 1992 report dated 1st July, 1992 ? I just quote one sentence because the hon. Home Minister also met the Committee. "The Committee expressed its anguish and concern over the manner in which the Members of Parliament were treated etc." Then in paragraph 36, the Committee recommended that : "the Government should frame the detailed guidelines for dealing between the administration and the legislators, the police and the legislators in consistence with the dignity of the Members of Legislatures to avoid complaints. The Committee trusts that stern action will be taken by the Government against the erring persons." This was in July 1992. The hon. Home Minister replies in March 1993 that no such guidelines exist. May I, first of all, know from the hon. Minister why this has been implemented ? Why have the guidelines with regard to the police and the legislators not been issutd so far ?

SHRI S. B. CHAVAN : Sir, very clear circulars have been issued right from 1957, 1968, 1974, 1988, 1991 and 1992 in which all hon. Members of Parliament as well as State Legislators have to be shown a kind of courtesy which is required and the circulars are very clear. Every administrative department and especially the poilce, have been informed about it.

SHRI VIREN J. SHAH : Sir, I am not asking my second supplementary but only the first one because reply to part(c) of my question says : "Though the aforesaid guidelines do not cover dealing of the police etc." the report of the Committee on Privileges is of July 1992. Thereafter, there are no guidelines.

SHRI S. B. CHAVAN : You have to read the whole sentence. "Though the aforesaid guidelines do not cover dealings of the police with Member of parliament and of the Houses of State Legislatures when they become members of an unlawful assembly . . . "

SHRI VIREN J. SHAH : That is not the point. The point is, after Ist July, 1992, as recommended by the Committee, whether specific guidelines have been issued or not. If not, why? That is my first supplementary.

SHRI S. B. CHAVAN : The guidelines are very clear. The only distinction that we have to make is that ordinarily, all the courtesy which is required to be shown to the hon. Members, will have to be shown . There is no question.

There is no question and even according to the order of precedence. those courtesies also have to be shown. But if the Members of the House become members of unlawful assemblies, then, of course, we will have to make a distinction between other citizens and the Members and it becomes very difficult for the police to find out as to who is a Member and who is not, and even if we were to know, at least I believe that Members of both the Houses will take care that they do not form part of an unlawful assembly.

SHRI VIREN J. SHAH : Sir, before I seek my second supplementary, I take it that the hon. Minister or the Government has not issued any specific guidelines after the July, 1992 report. They have not done anything because he has avoided answering that.

Now, I come to (c) and (d) parts of this reply. It is very unfortunate that, as usual, they have shifted the police officers because they were the eye-witnesses. I was also one of the eye-witnesses. Mr. Solanki and Mr. Chaturvedi, suffered excessive force which was unnecessary. That is why I am stating that it is an incorrect state-

ment. But the most interesting point, Mr. Chairman, which you as a guardian of this House, should take note of is (d). In (d) it says, "No police officer has been found guilty of misbehaviour on 25th February, 1993."

Already, you, Sir, have been pleased, without referring to the Ministry, to send the privilege notice concerning Mr. Ahluwalia to the Privileges Committee. And the Home Minister is sitting in judgement in advance against the Privileges Committee motion and has given a clean certificate that no misbehaviour has taken place on 25th February, 1993. How do we reconcile these two ?

SHRI S. B. CHAVAN : Since the question has been asked, in fact, I will have to reply to the question and this will have to be considered and whatever the findings of the Privileges Committee, if the Chairman is pleased to refer that isssue to the Privileges Committee, then ... (*interruptions*) ....

SHRI VIREN J. SHAH : The Chairman has been pleased to refer one of the ... (*interruptions*) ...

SHRI S. B. CHAVAN : ... then this will be subject to what the Privileges Committee decides.

SHRI VIREN J. SHAH : No, no; in advance of the Privileges Committee ... (*interruptions*) ... I think the whole House should be concerned about it. In advance of the Privileges Committee coming to a conclusion after examining witnesses in the case of Mr. Ahluwalia, here the Home Minister has already given a clean chit.

MR. CHAIRMAN : No, no; he has only said, "Nobody has been found guilty." Without examining how do you find anyone guilty ? This is a perfectly factual, correct statement.

SHRI VIREN J. SHAH : Sir, if you are satisfied, then there is no point of referring it to the Privileges Committee. I am sure ... (*interruptions*) ...

MR. CHAIRMAN : No, no; that is an entirely different question. Here he said, "No body has been found guilty." Nobody has, in fact, been found guilty so far ... (*interruptions*) ...

SHRI VIREN J. SHAH : It is unfortunate that we are made to feel that the hon. Members of Parliament are not believed, but the police officials are believed. ... (*interruptions*) ...

MR. CHAIRMAN : Thank you, thank you.

SHRI VIREN J. SHAH: I think the hon. Minister must think about changing it. This is happening in the States also. Beating of M.Ps, beating of legislators and beating of other ordinary people is continuing and at least we can take care of this and then go to all the citizens of India.

MR. CHAIRMAN : Thank you, thank you.

SHRI MURLIDHAR CHANDRAKANT BHANDARE : Sir, all these things are undoubtedly frustrating at times but the first thing which a Member of Parliament should try to analyse is that he is an ordinary citizen. If he behaves at all times as an ordinary citizen, without claiming any privileges of Parliament except when they are necessary for the performance of his duty as a Member of Parliament, I think most of the conflicts between the police and the Members of Parliament will be settled. But the question which I want to ask of the hon. Home Minister is whether they have issued any other guidelines over and above these two general guidelines which do not mean anything because Members of Parliament also help the police to preserve the law and order. They are very effective agents in this process, particularly when the situation is disturbed as in the case of communal disturbances and other things. In view of these, I would like to know whether there is a code of conduct for interaction between the police and the M. Ps. in serious situations disturbing law and order.

MR. CHAIRMAN : Question Hour is over.